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Chapter No. 540

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SENATE BILL NO. 2368

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2368

AN ACT TO AMEND SECTION 27-3-83, MISSISSIPPI CODE OF 1972, TO EXPAND THE TYPES OF DOCUMENTS THAT THE COMMISSIONER OF REVENUE MAY SPECIFY THE METHOD BY WHICH SUCH DOCUMENTS MAY BE FILED WITH THE DEPARTMENT OF REVENUE; TO PROVIDE THAT BY MANUALLY SIGNING OR AFFIXING AN ELECTRONIC SIGNATURE TO A DOCUMENT FILED WITH THE DEPARTMENT OF REVENUE, THE PERSON SIGNING THE DOCUMENT OR AFFIXING THE ELECTRONIC SIGNATURE TO THE DOCUMENT IS SWEARING UNDER OATH THAT ALL INFORMATION CONTAINED IN THE DOCUMENT IS TRUE AND CORRECT AND THAT HE OR SHE HAS THE SAME AUTHORITY TO SIGN THE DOCUMENT OR AFFIX THE ELECTRONIC SIGNATURE TO THE DOCUMENT AS THE PERSON FILING THE DOCUMENT OR AS THE DULY AUTHORIZED REPRESENTATIVE OF THE PERSON OR ENTITY FOR WHOM THE DOCUMENT IS BEING FILED; TO PROVIDE A CRIMINAL PENALTY FOR KNOWINGLY SUBMITTING FALSE INFORMATION IN A DOCUMENT OR SIGNING OR AFFIXING AN ELECTRONIC SIGNATURE TO A DOCUMENT WITHOUT THE AUTHORITY TO DO SO; TO AUTHORIZE THE DEPARTMENT TO RELEASE CONFIDENTIAL INFORMATION AND DOCUMENTS TO A PERSON DESIGNATED TO RECEIVE SUCH INFORMATION OR DOCUMENTS IN A PROPERLY EXECUTED POWER OF ATTORNEY OR OTHER DOCUMENT; TO AMEND SECTION 67-1-51, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT APPLICANTS FOR TEMPORARY RETAILER'S PERMITS ISSUED UNDER THE LOCAL OPTION ALCOHOLIC BEVERAGE CONTROL LAW MUST SUBMIT A STATEMENT UNDER PENALTY OF PERJURY, RATHER THAN AN AFFIDAVIT, THAT HE MEETS CERTAIN REQUIREMENTS; TO AMEND SECTION 67-3-17, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMMISSIONER OF REVENUE SHALL PRESCRIBE THE FORM OF THE APPLICATION FOR A PERMIT UNDER THE LIGHT WINE AND BEER LAW AND THAT SUCH APPLICATION MUST BE SIGNED UNDER PENALTY OF PERJURY; TO AMEND SECTION 27-69-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN ORDER TO OBTAIN A CHARITABLE EXEMPTION UNDER THE TOBACCO TAX LAW, PROOF THAT TAXABLE TOBACCO DONATED TO CERTAIN CHARITABLE ORGANIZATIONS WAS NOT PURCHASED FOR RESALE MUST BE ACCOMPANIED BY AN EXEMPTION CLAIM FORM AND SIGNED UNDER PENALTY OF PERJURY RATHER THAN AN AFFIDAVIT; TO AMEND SECTION 27-69-49, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN ORDER TO OBTAIN A REFUND UNDER THE TOBACCO TAX LAW FOR LOSS OF PRODUCT, THE PROOF OF LOSS OF TOBACCO FORM MUST BE SIGNED UNDER PENALTY OF PERJURY RATHER THAN SUPPORTED BY AN AFFIDAVIT; TO AMEND SECTION 27-7-345, MISSISSIPPI CODE OF 1972, TO REMOVE THE PENALTY FOR A SECOND OR SUBSEQUENT OFFENSE FOR FAILURE TO FILE A WITHHOLDING TAX RETURN WITHIN THE TIME PRESCRIBED OR FOR FAILURE TO PAY THE TAX WHEN SUCH FAILURE WAS NOT THE RESULT OF ANY FRAUDULENT INTENT; TO AMEND SECTION 27-65-39, MISSISSIPPI CODE OF 1972, TO REMOVE THE DAMAGES FOR A SECOND OR SUBSEQUENT OFFENSE FOR NEGLIGENCE OR FAILURE TO COMPLY WITH THE PROVISIONS OF THE SALES TAX LAW IF THERE WAS NO INTENT TO DEFRAUD; TO AMEND SECTION 27-69-9, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF REVENUE TO NOTIFY MANUFACTURERS, WHOLESALERS AND DISTRIBUTORS

OF THE REVOCATION OF A PERMIT UNDER THE TOBACCO TAX LAW EITHER MANUALLY OR ELECTRONICALLY AS SPECIFIED BY RULE OR REGULATION; TO AMEND SECTION 63-17-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL ADMINISTRATIVE PROVISIONS OF THE MISSISSIPPI SALES TAX LAW SHALL APPLY TO THE POINT-OF-SALE FEE LEVIED ON THE RETAIL SALES OF ALL-TERRAIN VEHICLES AND MOTORCYCLES, AND TO THE FEE LEVIED ON RESIDENTS OF THIS STATE WHO PURCHASE A NEW AND NOT PREVIOUSLY REGISTERED MOTORCYCLE OR ALL-TERRAIN VEHICLE IN ANOTHER STATE AND BRING THE MOTORCYCLE INTO THIS STATE; TO EXCLUDE VEHICLES DESIGNED FOR USE AS GOLF CARTS FROM THE TERM "ALL-TERRAIN" VEHICLE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-3-83, Mississippi Code of 1972, is amended as follows:

27-3-83. (1) The Commissioner of Revenue may specify by rule or regulation the manner and method, either manually or electronically, by which tax returns, supporting schedules, information returns, applications for permits, licenses or titles, powers of attorney, review board appeal petitions, and other * * * documents and information may be filed with the Department of Revenue. The commissioner may require certain taxpayers to submit any or all tax returns, schedules or other documents and information electronically; however, the commissioner shall not require the submission of returns, schedules or other documents and information electronically by taxpayers that do not have the capability to make the submissions electronically.

(2) The Commissioner of Revenue may specify by rule or regulation alternative forms of electronic signature that may be allowed or required on tax returns and other documents. Such an electronic signature shall have the same legal effect as that of a manual signature.

(3) An electronic or paper reproduction of a form or document, or the reproduction of the information placed on computer storage devices by electronic means, shall be deemed to be an original of the form or document for all purposes and is admissible in evidence without further foundation in all courts and administrative hearings if the following certification by the

Commissioner of Revenue, along with his official seal, is affixed to the reproduction:

The Commissioner of Revenue, official custodian of all records of the Department of Revenue, hereby certifies this document is a true reproduction of the information contained in the official records of this agency.

(4) If a person fails to comply with the rules and regulations promulgated by the commissioner under the provisions of subsection (1) or (2) of this section; fails to comply with any electronic filing mandate; fails to complete any return, supporting schedule, information return or other * * * document or fails to remit any required schedule or additional information, the commissioner may impose a penalty of Twenty-five Dollars (\$25.00) for the first instance of noncompliance and Five Hundred Dollars (\$500.00) for each additional instance of noncompliance. Any penalty imposed under this section shall be collected in the same manner as that set forth for the collection of penalties under the Mississippi Sales Tax Law, being Section 27-65-1 et seq.

(5) By manually signing or affixing an electronic signature to a document that may be filed with the department, the person signing the document or affixing the electronic signature to the document is swearing under oath that all information contained in the document is true and correct and that he or she has the same authority to sign the document or affix the electronic signature to the document as the person filing the document or as the duly authorized representative of the person or entity for whom the document is being filed. Should the person signing or affixing an electronic signature to a document filed with the Department of Revenue knowingly submit information in the document that is false or sign or affix an electronic signature to the document on the behalf of another person or entity without the authority to do so, he or she shall be guilty of perjury and, upon conviction, shall

be punished by imprisonment in the State Penitentiary for a term not exceeding ten (10) years.

(6) Notwithstanding the confidentiality of the information and documents in its possession, the Department of Revenue may release any information or a copy of any document in its possession and custody to any person designated to receive the information or document in a power of attorney or other document authorizing the release of the information or document which has been properly executed by the person or the duly authorized representative of the entity to whom the information or document pertains and where the authorization has not expired, been revoked, cancelled or otherwise rendered ineffective by death or other circumstances. The Department of Revenue may require the prepayment of the cost of the production of such information or records. The Department of Revenue retains the right to deny the release of information and documents for good cause, including, but not limited to, interference with its operation or with an ongoing tax, criminal, permit or regulatory investigation or prosecution, and the possible violation of any federal law, state law or exchange agreement with the Internal Revenue Service, other federal agency, another state agency or the revenue department of another state.

SECTION 2. Section 67-1-51, Mississippi Code of 1972, is amended as follows:

67-1-51. (1) Permits which may be issued by the department shall be as follows:

(a) **Manufacturer's permit.** A manufacturer's permit shall permit the manufacture, importation in bulk, bottling and storage of alcoholic liquor and its distribution and sale to manufacturers holding permits under this chapter in this state and to persons outside the state who are authorized by law to purchase the same, and to sell exclusively to the department.

Manufacturer's permits shall be of the following classes:

Class 1. Distiller's and/or rectifier's permit, which shall authorize the holder thereof to operate a distillery for the production of distilled spirits by distillation or redistillation and/or to operate a rectifying plant for the purifying, refining, mixing, blending, flavoring or reducing in proof of distilled spirits and alcohol.

Class 2. Wine manufacturer's permit, which shall authorize the holder thereof to manufacture, import in bulk, bottle and store wine or vinous liquor.

Class 3. Native wine producer's permit, which shall authorize the holder thereof to produce, bottle, store and sell native wines.

(b) **Package retailer's permit.** Except as otherwise provided in this paragraph, a package retailer's permit shall authorize the holder thereof to operate a store exclusively for the sale at retail in original sealed and unopened packages of alcoholic beverages, including native wines, not to be consumed on the premises where sold. Alcoholic beverages shall not be sold by any retailer in any package or container containing less than fifty (50) milliliters by liquid measure. In addition to the sale at retail of packages of alcoholic beverages, the holder of a package retailer's permit is authorized to sell at retail corkscrews, wine glasses, soft drinks, ice, juices, mixers and other beverages commonly used to mix with alcoholic beverages. Nonalcoholic beverages sold by the holder of a package retailer's permit shall not be consumed on the premises where sold.

(c) **On-premises retailer's permit.** An on-premises retailer's permit shall authorize the sale of alcoholic beverages, including native wines, for consumption on the licensed premises only; however, a patron of the permit holder may remove one (1) bottle of wine from the licensed premises if: (i) the patron consumed a portion of the bottle of wine in the course of consuming a meal purchased on the licensed premises; (ii) the

permit holder securely reseals the bottle; (iii) the bottle is placed in a bag that is secured in a manner so that it will be visibly apparent if the bag is opened; and (iv) a dated receipt for the wine and the meal is available. Such a permit shall issue only to qualified hotels, restaurants and clubs, and to common carriers with adequate facilities for serving passengers. In resort areas, whether inside or outside of a municipality, the department, in its discretion, may issue on-premises retailer's permits to such establishments as it deems proper. An on-premises retailer's permit when issued to a common carrier shall authorize the sale and serving of alcoholic beverages aboard any licensed vehicle while moving through any county of the state; however, the sale of such alcoholic beverages shall not be permitted while such vehicle is stopped in a county that has not legalized such sales.

(d) **Solicitor's permit.** A solicitor's permit shall authorize the holder thereof to act as salesman for a manufacturer or wholesaler holding a proper permit, to solicit on behalf of his employer orders for alcoholic beverages, and to otherwise promote his employer's products in a legitimate manner. Such a permit shall authorize the representation of and employment by one (1) principal only. However, the permittee may also, in the discretion of the department, be issued additional permits to represent other principals. No such permittee shall buy or sell alcoholic beverages for his own account, and no such beverage shall be brought into this state in pursuance of the exercise of such permit otherwise than through a permit issued to a wholesaler or manufacturer in the state.

(e) **Native wine retailer's permit.** A native wine retailer's permit shall be issued only to a holder of a Class 3 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native wines to consumers for on-premises consumption or to consumers in originally sealed and unopened

containers at an establishment located on the premises of or in the immediate vicinity of a native winery.

(f) **Temporary retailer's permit.** A temporary retailer's permit shall permit the purchase and resale of alcoholic beverages, including native wines, during legal hours on the premises described in the temporary permit only.

Temporary retailer's permits shall be of the following classes:

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days prior to the proposed date or such other time as the department may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2. A temporary permit, not to exceed seventy (70) days, may be issued to prospective permittees seeking to transfer a permit authorized in paragraph (c) of this subsection. A Class 2 permit may be issued only to applicants demonstrating to the

department, by a statement signed under the penalty of perjury, that they meet the qualifications of Sections 67-1-5(1), (m), (n), (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The department, following a preliminary review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2 temporary permittees must purchase their alcoholic beverages directly from the department or, with approval of the department, purchase the remaining stock of the previous permittee. If the proposed applicant of a Class 1 or Class 2 temporary permit falsifies information contained in the application or statement, the applicant shall never again be eligible for a retail alcohol beverage permit and shall be subject to prosecution for perjury.

Class 3. A temporary one-day permit may be issued to a retail establishment authorizing the complimentary distribution of wine, including native wine, to patrons of the retail establishment at an open house or promotional event, for consumption only on the premises described in the temporary permit. A Class 3 permit may be issued only to an applicant demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days before the proposed date or such other time as the department may determine, that it meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. A Class 3 permit holder shall obtain all alcoholic beverages from the holder(s) of a package retailer's permit located in the county in which the temporary permit is issued. Wine remaining in stock upon expiration of the temporary permit may be returned by the Class 3 temporary permit holder to the package retailer for a refund of the purchase price, with consent of the package retailer, or may be kept by the Class 3 temporary permit holder exclusively for personal use and consumption, subject to all laws

pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit. No retailer may receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3 temporary permit shall not be issued to a retail establishment that either holds a merchant permit issued under paragraph (1) of this subsection, or holds a permit issued under Chapter 3, Title 67, Mississippi Code of 1972, authorizing the holder to engage in the business of a retailer of light wine or beer.

(g) **Caterer's permit.** A caterer's permit shall permit the purchase of alcoholic beverages by a person engaging in business as a caterer and the resale of alcoholic beverages by such person in conjunction with such catering business. No person shall qualify as a caterer unless forty percent (40%) or more of the revenue derived from such catering business shall be from the serving of prepared food and not from the sale of alcoholic beverages and unless such person has obtained a permit for such business from the Department of Health. A caterer's permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in business as a caterer; however, the holder of an on-premises retailer's permit may hold a caterer's permit. When the holder of an on-premises retailer's permit or an affiliated entity of the holder also holds a caterer's permit, the caterer's permit shall not authorize the service of alcoholic beverages on a consistent, recurring basis at a separate, fixed location owned or operated by the caterer, on-premises retailer or affiliated entity and an on-premises retailer's permit shall be required for the separate location. All sales of alcoholic beverages by holders of a caterer's permit shall be made at the location being catered by the caterer, and such sales may be made only for consumption at the catered location. The location being

catered may be anywhere within a county or judicial district that has voted to come out from under the dry laws or in which the sale, distribution and possession of alcoholic beverages is otherwise authorized by law. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcoholic beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee shall have at the location the identification card issued by the Alcoholic Beverage Control Division of the department. No unsold alcoholic beverages may be left at the catered location by the permittee upon the conclusion of his business at that location. Appropriate law enforcement officers and Alcoholic Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcoholic beverages.

(h) **Research permit.** A research permit shall authorize the holder thereof to operate a research facility for the professional research of alcoholic beverages. Such permit shall authorize the holder of the permit to import and purchase limited amounts of alcoholic beverages from the department or from importers, wineries and distillers of alcoholic beverages for professional research.

(i) **Alcohol processing permit.** An alcohol processing permit shall authorize the holder thereof to purchase, transport and possess alcoholic beverages for the exclusive use in cooking, processing or manufacturing products which contain alcoholic beverages as an integral ingredient. An alcohol processing permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in the business of cooking, processing or manufacturing products which contain alcoholic

beverages. The amounts of alcoholic beverages allowed under an alcohol processing permit shall be set by the department.

(j) **Hospitality cart permit.** A hospitality cart permit shall authorize the sale of alcoholic beverages from a mobile cart on a golf course that is the holder of an on-premises retailer's permit. The alcoholic beverages sold from the cart must be consumed within the boundaries of the golf course.

(k) **Special service permit.** A special service permit shall authorize the holder to sell commercially sealed alcoholic beverages to the operator of a commercial or private aircraft for en route consumption only by passengers. A special service permit shall be issued only to a fixed-base operator who contracts with an airport facility to provide fueling and other associated services to commercial and private aircraft.

(l) **Merchant permit.** A merchant permit shall be issued only to the owner of a spa facility, an art studio or gallery, or a cooking school, and shall authorize the holder to serve complimentary by the glass wine only, including native wine, at the holder's spa facility, art studio or gallery, or cooking school. A merchant permit holder shall obtain all wine from the holder of a package retailer's permit.

(m) **Temporary wine charitable auction permit.** A temporary permit, not to exceed five (5) days, may be issued to a qualifying charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986. The permit shall authorize the holder to sell wine for the limited purpose of raising funds for the organization during a live or silent auction that is conducted by the organization and that meets the following requirements: (i) the auction is conducted in an area of the state where the sale of wine is authorized; (ii) if the auction is conducted on the premises of an on-premises retailer's permit holder, then the wine to be auctioned must be stored separately from the wine sold,

stored or served on the premises, must be removed from the premises immediately following the auction, and may not be consumed on the premises; (iii) the permit holder may not conduct more than two (2) auctions during a calendar year; (iv) the permit holder may not pay a commission or promotional fee to any person to arrange or conduct the auction.

(2) Except as otherwise provided in subsection (4) of this section, retail permittees may hold more than one (1) retail permit, at the discretion of the department.

(3) Except as otherwise provided in this subsection, no authority shall be granted to any person to manufacture, sell or store for sale any intoxicating liquor as specified in this chapter within four hundred (400) feet of any church, school, kindergarten or funeral home. However, within an area zoned commercial or business, such minimum distance shall be not less than one hundred (100) feet.

A church or funeral home may waive the distance restrictions imposed in this subsection in favor of allowing issuance by the department of a permit, pursuant to subsection (1) of this section, to authorize activity relating to the manufacturing, sale or storage of alcoholic beverages which would otherwise be prohibited under the minimum distance criterion. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver, and the waiver shall be filed with and verified by the department before becoming effective.

The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a bed and breakfast inn listed in the National Register of Historic Places or to the sale or storage of alcoholic beverages in a historic district that is listed in the National Register of Historic Places, is a qualified resort area and is located in a

municipality having a population greater than one hundred thousand (100,000) according to the latest federal decennial census.

(4) No person, either individually or as a member of a firm, partnership, limited liability company or association, or as a stockholder, officer or director in a corporation, shall own or control any interest in more than one (1) package retailer's permit, nor shall such person's spouse, if living in the same household of such person, any relative of such person, if living in the same household of such person, or any other person living in the same household with such person own any interest in any other package retailer's permit.

SECTION 3. Section 67-3-17, Mississippi Code of 1972, is amended as follows:

67-3-17. (1) Any person desiring to engage in any business taxable under Sections 27-71-303 through 27-71-317, Mississippi Code of 1972, either as a retailer, or as a wholesaler or distributor, or as a manufacturer, of light wines or beer, shall file with the commissioner an application for a permit allowing him to engage in such business. The application for a permit shall * * * contain a statement showing the name of the business, and if a partnership, firm, association or limited liability company, the name of each partner or member, and if a corporation the names of two (2) principal officers, the post office address, and the nature of business in which engaged. In case any business is conducted at two (2) or more separate places, a separate permit for each place of business shall be required. The commissioner shall prescribe the form of the application and designate who is required to sign the application. The application shall be signed under penalty of perjury.

(2) The application shall include a statement that the applicant * * * will not allow any intoxicating liquor as defined by this chapter, including beer, wine and distilled spirits, or alcoholic, malt, or vinous liquors including beer and wine, having

an alcoholic content of more than five percent (5%) by weight, to be kept, stored or secreted in or on the premises described in such permit or license, and that the applicant will not otherwise violate any law of this state, or knowingly allow any other person to violate any such law, while in or on such premises.

(3) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 4. Section 27-69-21, Mississippi Code of 1972, is amended as follows:

27-69-21. (1) The provisions of this chapter shall not apply to any tobacco donated to any charitable organization for the use of inmates of any institution supported, in whole or in part, by donations from the public, nor shall its provisions apply to tobacco purchased by the state or federal government for use of inmates of any state or federal institution. This exemption from the payment of the tax can only be allowed by the commissioner on sales supported by proof that such taxable tobacco was not purchased for resale, but donated to the inmates of the institution claiming such exemption. This proof must be accompanied by an exemption claim form as prescribed by the commissioner and signed under penalty of perjury by an official of the institution requesting the exemption.

(2) It is further provided that no tax shall apply on sales of tobacco by a wholesaler or distributor to a retailer for resale on the Mississippi and Tennessee Rivers at midstream or in the intercoastal waterway in the Mississippi Sound to crew members for use or consumption on boats or barges transporting property in interstate commerce.

SECTION 5. Section 27-69-49, Mississippi Code of 1972, is amended as follows:

27-69-49. (1) The commissioner may promulgate rules and regulations providing for refunds to dealers of the face value of

stamps affixed to any cigarettes which have become unfit for use and consumption, unsalable, or for any other legitimate loss which may occur, upon proof of such loss. Refund is to be made by issuing new stamps of an aggregate value of the tax paid on the goods adjudged to be unfit for use, consumption, unsalable, or any other loss suffered.

(2) * * * The proof of loss required to obtain a refund of the amount so authorized in subsection (1) of this section, shall be in a form prescribed by the commissioner and signed by the applicant under penalty of perjury, his agent or representative, or other person familiar with the facts relied upon, setting out in detail the facts and circumstances under which the loss occurred.

* * *

(3) The commissioner shall keep a permanent record of all such refunds made by him, in his office, and shall receive credit for such refunds.

(4) No cigarettes which have been adjudged unfit for use and consumption, or unsalable, shall again be offered for sale in this state, and any person selling or offering to sell, or to give away, any such cigarettes shall be guilty of a misdemeanor.

SECTION 6. Section 27-7-345, Mississippi Code of 1972, is amended as follows:

27-7-345. Any taxpayer who either fails to file a required return within the time prescribed, or who fails to remit the tax or remits less than the amount due under the return, shall be liable for the following penalties:

(a) If the failure to file a return within the time prescribed, or the failure to pay the tax or any part thereof, was not the result of any fraudulent intent, the taxpayer shall be liable for a penalty in the amount of ten percent (10%) * * * of the total amount of deficiency or delinquency in the tax, plus interest on the amount of tax due at the rate of one percent (1%)

per month on the amount not paid, from the date such tax was due until paid, and such amount shall be added to the liability of the taxpayer unless such failure was due to reasonable cause.

(b) If the failure to file the return or to remit the tax or any part thereof was the result of a fraudulent intent to evade the payment to the commissioner, the taxpayer, in addition to the criminal penalty provided in Section 27-7-347, shall be liable for a penalty of fifty percent (50%) of the tax due, plus interest on the amount of tax due at the rate of one percent (1%) per month on the amount not paid.

(c) If the failure to file an information return or to furnish a required statement within the time prescribed was not the result of any fraudulent intent, the taxpayer shall be liable for a penalty of Five Dollars (\$5.00) per statement, with a minimum of Two Hundred Fifty Dollars (\$250.00) up to a maximum of Ten Thousand Dollars (\$10,000.00) per reporting account.

(d) If the failure to file an information return or to furnish a required statement was the result of intentional disregard of filing requirements, the taxpayer shall be liable for a penalty of Twenty-five Dollars (\$25.00) per statement, with a minimum of Two Hundred Fifty Dollars (\$250.00) up to a maximum of Fifty Thousand Dollars (\$50,000.00) per reporting account.

SECTION 7. Section 27-65-39, Mississippi Code of 1972, is amended as follows:

27-65-39. If any part of the deficient or delinquent tax is due to negligence or failure to comply with the provisions of this chapter or authorized rules and regulations promulgated under the provisions of this chapter without intent to defraud, there may be added as damages ten percent (10%) * * * of the total amount of deficiency or delinquency in the tax, or interest at the rate of one percent (1%) per month, or both, from the date such tax was due until paid, and the tax, damages and interest shall become payable upon notice and demand by the commissioner.

If any part of the deficient or delinquent tax is due to intentional disregard of the provisions of this chapter or authorized rules and regulations promulgated under the provisions of this chapter, or to fraud with intent to evade the law, then there shall be added as damages fifty percent (50%) of the total amount of the deficiency or delinquency of the tax, and in such case the whole amount of tax unpaid, including the charges so added, shall become due and payable upon notice and demand by the commissioner, and interest of one percent (1%) per month of the tax shall be added from the date such tax was due until paid.

* * *

SECTION 8. Section 27-69-9, Mississippi Code of 1972, is amended as follows:

27-69-9. In addition to the penalties imposed in this chapter, after the second offense for any violation, the commissioner may revoke any permit which may have been issued to any person, or persons, violating any provisions of this chapter, or any rules or regulations promulgated by the commissioner under authority of this chapter.

The commissioner, in the event a permit is revoked, is required to notify * * * all manufacturers, wholesalers and distributors having a permit required by this chapter, that the permit has been revoked, and such manufacturer, wholesaler and distributor is henceforth prohibited from selling taxable tobacco to such dealer or retailer. The commissioner may notify manufacturers, wholesalers and distributors as required by this paragraph either manually or electronically and shall specify by rule or regulation the method by which the notification shall be made.

SECTION 9. 63-17-171, Mississippi Code of 1972, is amended as follows:

63-17-171. (1) (a) There is levied a point-of-sale fee of Fifty Dollars (\$50.00) on the retail sales of all-terrain vehicles

and motorcycles as defined in Section 63-21-5. The seller of an all-terrain vehicle or a motorcycle shall collect the fee from the purchaser at the time of sale and remit the fee to the Department of Revenue, which shall deposit the proceeds of the fees into the Mississippi Trauma Care Systems Fund created in Section 41-59-75.

(b) The seller of an all-terrain vehicle or a motorcycle shall provide a written statement to the purchaser, which may be printed on the sales receipt, that reads as follows: "\$50.00 of the amount that you paid for this vehicle will be used to fund the Mississippi Trauma Care System."

(2) (a) There is levied a fee of Fifty Dollars (\$50.00) on a resident of this state who purchases a new and not previously registered motorcycle in another state and brings the motorcycle into this state. The person shall pay the fee to the tax collector at the time of registering the motorcycle and applying for a license tag. The tax collector shall remit the fee to the Department of Revenue, which shall deposit the proceeds of the fee into the Mississippi Trauma Care Systems Fund created in Section 41-59-75.

(b) There is levied a fee of Fifty Dollars (\$50.00) on a resident of this state who purchases a new all-terrain vehicle in another state and brings the vehicle into this state. The person shall pay the fee to the Department of Revenue, which shall deposit the proceeds of the fee into the Mississippi Trauma Care Systems Fund created in Section 41-59-75.

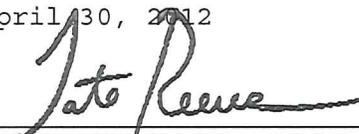
(3) As used in this section, the term "all-terrain vehicle" shall not include vehicles designed for use as golf carts.

(4) All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest for nonpayment of taxes and for noncompliance with the provisions of such law, and all other requirements and duties imposed upon taxpayers, shall apply to all persons liable for the fees imposed by this section, and the Commissioner of Revenue shall exercise

all the power and authority and perform all the duties with respect to this section as are provided in the Sales Tax Law except where there is a conflict, then the provisions of this section prevail.

SECTION 10. Sections 8 and 9 of this act shall take effect and be in force from and after its passage, and the remaining sections of this act shall take effect and be in force from and after July 1, 2012.

PASSED BY THE SENATE
April 30, 2012



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 28, 2012



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

5-23-12

3:29pm